



# RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2016-0148

3

RESPONSE TYPE  INTERIM  FINAL

**REQUESTER:**

Susan Shapiro, Esq.

**DATE:**

06/17/2016

**DESCRIPTION OF REQUESTED RECORDS:**

ADAMS listing of certain Indian Point (IP) records and listings of Commission meetings with Entergy, NEI or other stakeholders over the past 10 years; data/research from the NRC/NAS discontinued pilot study on cancer risks, and certain ICRP publications.

### PART I. -- INFORMATION RELEASED

- Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

### PART I.A -- FEES

AMOUNT\*

\$

\*See Comments for details

- You will be billed by NRC for the amount listed.
- None. Minimum fee threshold not met.
- You will receive a refund for the amount listed.
- Fees waived.

### PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or [FOIA.Resource@nrc.gov](mailto:FOIA.Resource@nrc.gov). Please be sure to include on your letter or email that it is a "FOIA Appeal."

### PART I.C COMMENTS ( Use attached Comments continuation page if required)

The incoming request will be made available in ADAMS as ML15345A294. Records with an ML accession number are publicly available in the NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>. If you need assistance in obtaining these records, please contact the NRC's Public Document Room (PDR) at 301-415-4737, or 1-800-397-4209, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). In our first interim response, we provided you with a listing of the records already available to you in public ADAMS, in partial response to item A of your request. In our second interim response, we provided you with our response to items B and E of your request. [continued on next page]

SIGNATURE OF FREEDOM OF INFORMATION ACT OFFICER

*Roger D. Andoh*

2016-0148

3

**RESPONSE TO FREEDOM OF INFORMATION  
ACT (FOIA) REQUEST Continued**

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**PART I.C COMMENTS (Continued)**

This final response completes our work on item A and addresses the records responsive to items C and D. We did not locate any additional records responsive to A that are not already publicly available (for which ADAMS listings were previously provided to you).

With respect to items C and D, the NRC does not maintain "a list of all the meetings the NRC Commissioners have had with representatives of Entergy and Nuclear Energy Institute to discuss Indian Point issues over the past 10 years." Nor does it maintain "a list of how many meetings the NRC Commissioners have had with stakeholders from the Indian Point Reactor Community during this same period of time." In an effort to provide you any records NRC does have that may reflect these meetings, NRC staff searched for any calendars or similar records. The NRC instituted the practice of posting the meetings of the current Chairman and Commissioners several years ago. Please refer to the attached page for links to these webpages (Group A). (In that regard, please note that Commissioner Ostendorff's term ends June 30, 2016, at which time his webpage will be removed.)

No other responsive records were located for Chairman Burns or Commissioner Baran. We note that there have been a number of prior FOIA requests seeking calendars of the Commission for some of the years covered by the 10-year time period specified in your response. Although our search of these FOIA response packages (using the "Find" feature) for entries under "Indian Point" did not identify any such meetings, you wish to peruse them. Here are the ADAMS accession numbers for them: FOIA-2011-0136 (ML12048A104), FOIA-2013-0326 (ML11362A015), ML-2013-0060 (ML14065A206) and FOIA-2015-0099 (ML15169A760). The Office of the Secretary to the Commission searched its archived files and located several additional records (calendars, agendas, and box listings, which reflect meetings that took place with the specified individuals or entities. Lastly, we have also attached copies of the (now removed) webpages of former Chairmen Jaczko and Macfarlane, as well as Commissioners Apostolakis and Magwood (Group B). Certain non-responsive information, appearing on the partially released records, has been redacted as "outside of the scope" of your request.

We appreciate your patience.



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**PART II.A -- APPLICABLE EXEMPTIONS**

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
  - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
  - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
  - The information is considered to be another type of confidential business (proprietary) information.
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
  - Deliberative process privilege.
  - Attorney work product privilege.
  - Attorney-client privilege.
- Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
  - (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
  - (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- Other portions not pertaining to meetings about Indian Point with specified individuals/entities are outside the scope

**PART II.B -- DENYING OFFICIALS**

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Rochelle Bavol	Executive Assistant to the Secretary	outside the scope portions	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

Appeals must be made in writing within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or [FOIA.Resource@nrc.gov](mailto:FOIA.Resource@nrc.gov). Please be sure to include on your letter or email that it is a "FOIA Appeal."